Applicants wish to direct the Examiner's attention to the filed divisional (now published Sept. 18, 2008 as US20080228070) of the above-identified application, in the event such divisional may be deemed relevant.

Claims 24-33 stand rejected pursuant to 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,503,203 to Rafter et al. (hereinafter Rafter).

Claim 24 is directed to a system for setting parameters for contrast agent medical imaging. Claim 24 recites "a processor operable to select different ones of the plurality of transmit sequences and of the plurality of transmit levels in response to a single input from the user input control, the single input for adjusting a transmit level for contrast agent response."

Rafter discloses an automated ultrasound system for performing image studies utilizing ultrasound contrast agents (see abstract). Rafter focuses on controlling an ultrasound system with plain English indications that need to be interpreted prior to execution of the ultrasound system (see col. 7, lines 25-30). A "simplified portion" of this model is shown by tables 1-10 (col. 7, lines 32-33). More specifically, each state is entered in separate state tables 1-5 (col. 7, lines 34-36). Next, the state tables are referenced in view tables 6-9 to provide an order for the state tables (col. 7, lines 35-37). Finally, a study table, such as table 10, is provided to collect the various views into stages of the study (col. 7, lines 43-55).

As shown in Fig. 2, Rafter discloses that the user enters preliminary information at step 204, sets initial imaging settings at step 208, and adjusts the image at step 214. Rafter discloses that the various settings may be modified by the user through this complicated procedure (col. 10, lines 15-37). There is no indication that Rafter teaches or suggests selecting from a plurality of transmit sequences and from a plurality of transmit levels in response to a single input.

In other words, Rafter discloses states that are viewed in sequences as part of a stress study. However, Rafter does not disclose a processor operable to select different ones of the plurality of transmit sequences and of the plurality of transmit levels in response to a single input from the user input control.

In addition to failing to teach or suggest a processor operable to select transmit sequences and transmit levels, Rafter also does not disclose a single input, in response to which

the transmit sequences and transmit levels are selected. The Office Action submits that a button is disclosed (page 2). However, the button is for outputting a signal (the so-called impulse) that disrupts contrast agents (col. 7, lines 41). Further, the impulse activated by the button is shown in Table 4 and includes only one type of signal. The signal does not vary at all with respect to transmit sequence or transmit level.

Therefore, Rafter does not teach or suggest a processor operable to select different ones of the plurality of transmit sequences and of the plurality of transmit levels in response to a single input from the user input control, the single input for adjusting a transmit level for contrast agent response.

For these reasons, Applicants respectfully request that the rejection of claims 24 be withdrawn. Accordingly, because claims 25-33 depend on claim 24, the rejection of claims 25-33 should also be withdrawn.

Claims 24-33 stand rejected pursuant to 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,503,203 in view of In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967).

The M.P.E.P. does not provide for any type of rejection made "in view of" a court decision. Further, rejections under 35 U.S.C. §102(e) should not be made "in view of" anything. Nonetheless, in the interests of furthering prosecution of the application, the following remarks are provided.

The Office Action asserts that "operable" is functional language and "a processor, operable for performing a task, merely defines the claim as a "processor capable of performing the task" which could very well be any computer processor" (page 3).

Applicants dispute the broad assertions of the Office Action. *In Re Casey* involved the claim language "said brush being formed with projecting bristles which terminate in free ends to collectively define a surface which adhesive tape will detachably adhere." The prior art did not disclose adhesive tape but the court found that the prior art surface is one to which adhesive tape will detachably adhere. *In re Casey*, 152 USPQ, at 238.

In re Casey recognizes that there are surfaces not capable of adhering to adhesive tape and those are found outside of the scope of the claim. Likewise, claim language directed to a processor operable to select different ones of the plurality of transmit sequences and of the plurality of transmit levels, does not include all processors but only those, based on the

instructions contained therein, that are capable of performing the claimed functions.

As addressed above, Rafter does not teach or suggest a processor operable to select different ones of the plurality of transmit sequences and of the plurality of transmit levels in response to a single input from the user input control, the single input for adjusting a transmit level for contrast agent response.

For these reasons, Applicants respectfully request that the rejection of claims 24 be withdrawn. Accordingly, because claims 25-33 depend on claim 24, the rejection of claims 25-33 should also be withdrawn.

Claim 27

Claim 27 recites "wherein the table includes settings for each of the transmit levels of transmit modulation frequency, transmit bandwidth, transmit coding, number of transmit foci per scan line, number of transmit pulses per scan line, number of transmitted lines per image, time between transmissions, velocity scale, reverberation-suppression pulses, receive bandwidth, receive demodulation frequency and combinations thereof."

Rafter does not disclose a table that includes settings for each of the above values. Applicants respectfully submit that Rafter, taken alone or in view of *In re Casey*, cannot anticipate claim 27. Therefore, the rejection of claim 27 should be withdrawn.

Claim 28

Claim 28 recites "wherein the processor is operable to obtain a measure of the contrast agent response and automatically select at least one of the different one of (i) the plurality of transmit sequences and (ii) of the plurality of transmit levels in response to the measure."

Rafter does not teach or suggest automatically selecting a transmit sequence of transmit level in response to a measure of the contrast agent response. Applicants respectfully submit that Rafter, taken alone or in view of *In re Casey*, cannot anticipate claim 28. Therefore, the rejection of claim 28 should be withdrawn.

Claim 31

Claim 31 recites "a low, a medium and a high transmit level, and wherein the processor is operable to select settings of: for the low transmit level, the transmit sequence having multiple pulses with at least one of different amplitudes and phases, the transmit modulation being low and the receive demodulation frequency being medium; for the

medium transmit level, the transmit sequence having multiple pulses with at least one of different amplitudes and phases, the transmit modulation being medium and the receive demodulation frequency being high; and for the high transmit level, the transmit sequence having multiple pulses with all pulses having one of a same amplitude and a same phase, the transmit modulation being high and the receive demodulation frequency being low."

Rafter does not disclose a processor operable to select settings for three transmit levels. Applicants respectfully submit that Rafter, taken alone or in view of *In re Casey*, cannot anticipate claim 31. Therefore, the rejection of claim 31 should be withdrawn.

Claim 33

Claim 33 recites "the processor is operable to set the transmit level as one of at least a low and a high transmit level, allow acquisition of velocity information in addition to contrast agent detection for the low transmit level, allow velocity scale adjustment for the low transmit level, and preventing acquisition of velocity information in addition to contrast agent detection for the high transmit level."

Rafter does not teach or suggest velocity scale adjustment. Applicants respectfully submit that Rafter, taken alone or in view of *In re Casey*, cannot anticipate claim 33. Therefore, the rejection of claim 33 should be withdrawn.

CONCLUSION:

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof.

PLEASE MAIL CORRESPONDENCE TO:

Siemens Corporation
Customer No. 28524
Attn: Elsa Keller, Legal Administrator
170 Wood Avenue South
Iselin, NJ 08830

Respectfully submitted,
/Rosa S. Kim/

Rosa S. Kim, Reg. No. 39,728
Attorney(s) for Applicant(s)
Telephone: 650-694-5330
Date: <u>Dec. 10, 2008</u>